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APPROVED
NOV 13 1975

Signed
11/13

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: November 17

November 11, 1975

Posted
11/14
To archives
11/14

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON ~~W~~
SUBJECT: Enrolled Bill S. 1649 - Gifts for the National Arboretum

Attached for your consideration is S. 1649, sponsored by Senator Dole, which authorizes the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 1649 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 10 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1649 - Gifts for the National
Arboretum
Sponsor - Sen. Dole (R) Kansas

Last Day for Action

November 17, 1975 - Monday

Purpose

Authorizes the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of the Treasury	No Objection
Department of Justice	No Objection

Discussion

Under present law, the Secretary of Agriculture maintains and administers the National Arboretum for purposes of research and education concerning tree and plant life. In support of the Secretary's efforts, various individuals and groups have made contributions over the past 48 years ranging from small sums of money to major collections of plants.

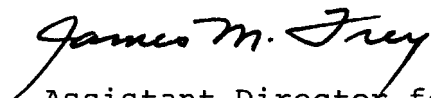
However, last year, the Department of Agriculture's General Counsel determined that the Secretary did not have a clear and adequate legal basis for the acceptance of

gifts to the National Arboretum. Accordingly, Agriculture submitted to the 94th Congress proposed legislation to resolve this problem and it has been enacted in the form of S. 1649 as described below.

The enrolled bill would authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum. For the purposes of Federal income, estate, and gift tax laws, such property would be considered as a gift or devise to the United States.

In its letter concerning the enrolled bill, Agriculture concludes that:

"As the National Arboretum continues to grow in public stature and expand its research and educational activities, there will be increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture."


Assistant Director for
Legislative Reference

Enclosures

B

Department of Justice
Washington, D.C. 20530

November 6, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503


Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (S. 1649), "To amend the Act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum."

S. 1649 would amend the Act of March 4, 1927 to inter alia authorize the Secretary of Agriculture to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests and devises of real and personal property made for the benefit of the National Arboretum or for carrying out any of its functions.

The Department of Justice interposes no objection to Executive approval of this measure,

Sincerely,


Michael M. Uhlmann



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

November 7, 1975

Dear Mr. Lynn:

This is in response to your request for a report on the enrolled enactment of S. 1649, a bill "To amend the Act of March, 4, 1927 to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum."

The Department of Agriculture recommends that the President approve the bill. This is legislation the Congress passed at the request of the Executive Branch.

Public Law 799 established the National Arboretum on March 4, 1927. This Act authorized and directed the Secretary of Agriculture to establish and maintain a National Arboretum for the purpose of research and education concerning tree and plant life.

As the National Arboretum continues to grow in public stature and expand its research and educational activities, there will be an increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture.

No additional appropriations would be required as a result of enacting this proposed legislation.

Sincerely,

A handwritten signature in cursive script that reads "J. Phil Campbell".

J. Phil Campbell
Under Secretary



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

NOV 7 1975

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 1649, "To amend the Act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum."

The enrolled enactment would authorize the Secretary of Agriculture to accept gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of Federal income, estate, and gift tax laws, such property would be considered as a gift, bequest, or devise to the United States. Gifts of money and proceeds from the disposition of property accepted under the bill would be deposited in a separate fund in the Treasury and disbursed upon the order of the Secretary of Agriculture.

The Department has no objection to a recommendation that the President sign the enrolled enactment.

Sincerely yours,



General Counsel

Richard R. Albrecht

To: J. Casanough
11-10-75
5:00 P.M.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 10 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1649 - Gifts for the National Arboretum
Sponsor - Sen. Dole (R) Kansas

Last Day for Action

November 17, 1975 - Monday

Purpose

Authorizes the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of the Treasury	No Objection
Department of Justice	No Objection

Discussion

Under present law, the Secretary of Agriculture maintains and administers the National Arboretum for purposes of research and education concerning tree and plant life. In support of the Secretary's efforts, various individuals and groups have made contributions over the past 48 years ranging from small sums of money to major collections of plants.

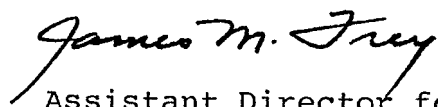
However, last year, the Department of Agriculture's General Counsel determined that the Secretary did not have a clear and adequate legal basis for the acceptance of

gifts to the National Arboretum. Accordingly, Agriculture submitted to the 94th Congress proposed legislation to resolve this problem and it has been enacted in the form of S. 1649 as described below.

The enrolled bill would authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum. For the purposes of Federal income, estate, and gift tax laws, such property would be considered as a gift or devise to the United States.

In its letter concerning the enrolled bill, Agriculture concludes that:

"As the National Arboretum continues to grow in public stature and expand its research and educational activities, there will be increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture."


Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 926

Date: November 10

Time: 500pm

FOR ACTION: Paul Leach
~~Dick Parsons~~
Max Friedersdorf
Ken Lazarus *pk*

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: November 11

Time: 400pm

SUBJECT:

Enrolled Bill S. 1649 - Gifts for the National Arboretum

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 926

Date: November 10

Time: 500pm

FOR ACTION: Paul Leach
 Dick Parsons
 Max Friedersdorf
 Ken Lazarus

cc (for information): Jim Cavanaugh
 Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: November 11

Time: 400pm

SUBJECT:

Enrolled Bill S. 1649 - Gifts for the National
 Arboretum

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 11/11/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
 delay in submitting the required material, please
 telephone the Staff Secretary immediately.

James B. Cavanaugh
 For the President

THE WHITE HOUSE
WASHINGTON

November 12, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: Enrolled Bill S. 1649 - Gifts for the National Arboretum

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

GIFTS OF PROPERTY TO THE NATIONAL ARBORETUM

JULY 23 (legislative day, JULY 21), 1975.—Ordered to be printed

Mr. DOLE, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany S. 1649]

The Committee on Agriculture and Forestry, to which was referred the bill (S. 1649) to amend the act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 1649 would specifically authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum.

COMMITTEE AMENDMENT

The committee amendment is as follows: On page 1, line 9, strike the word "unconditionally".

The amendment was suggested by the Department of Agriculture to eliminate a technical problem.

BACKGROUND AND NEED FOR LEGISLATION

On March 4, 1927, Public Law 799 was enacted. The statute authorized and directed the Secretary of Agriculture to establish and maintain a National Arboretum for purposes of research and education concerning tree and plant life.

In keeping with the development goals of the National Arboretum, various individuals and groups have, over the past 48 years, made a wide variety of contributions. These range from small sums of money to major collections of plants, such as the Gotelli Dwarf Conifer Collection, which is valued at \$500,000. Financial support from major garden organizations—such as the Garden Club of America, the Woman's National Farm and Garden Association, and the National Capital Area Federation of Garden Clubs—have assisted in the creation of significant gardens for both research and educational purposes. A collection of 8,000 large azaleas was donated by the Netherlands. Recently, a rare and priceless collection of Bonsai plants was donated by the Nippon Bonsai Association of Japan to commemorate America's Bicentennial.

As the National Arboretum continues to grow in public stature and expand its research and educational activities, there will be an increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture.

In past years, gifts to the National Arboretum have been accepted by the trustees of the "Friends of the National Arboretum", an organization formed pursuant to a memorandum of understanding between the advisory council of the Arboretum and the Agricultural Research Service. However, the General Counsel's office of the Department has advised the Agricultural Research Service that the memorandum of understanding does not form an adequate legal basis for the acceptance of gifts to the National Arboretum.

The Department has, therefore, requested the enactment of S. 1649. The bill would authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of property for the benefit of the National Arboretum.

DEPARTMENTAL VIEWS

I.

In a letter to the President of the Senate dated April 25, 1975, Under Secretary of Agriculture J. Phil Campbell requested the enactment of S. 1649. The letter from the Under Secretary reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 25, 1975.

HON. NELSON A. ROCKEFELLER,
President of the Senate.

DEAR MR. PRESIDENT: Transmitted herewith for the consideration of the Congress is a draft bill "To amend the Act of March 4, 1927 to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum."

The Department of Agriculture recommends that the draft bill be enacted.

Public Law 799 established the National Arboretum on March 4, 1927. This Act authorized and directed the Secretary of Agriculture to establish and maintain a National Arboretum for the purpose of research and education concerning tree and plant life.

As the National Arboretum continues to grow in public stature and expand its research and educational activities, there will be an increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture.

No additional appropriations would be required as a result of enacting this proposed legislation.

Section 102(2)(c) of P.L. 91-190 does not apply to this legislation; therefore an environmental statement is not enclosed.

An identical letter has been sent to the Speaker of the House of Representatives.

The Office of Management and Budget advises that there is no objection to the presentation of the proposed legislation from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

II.

In a letter to Senator Dole dated July 22, 1975, Assistant Secretary of Agriculture Robert W. Long recommended that the word "unconditionally" be stricken from the bill. The letter from the Assistant Secretary reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 22, 1975.

HON. ROBERT DOLE,
U.S. Senate.

DEAR SENATOR DOLE: In regard to S. 1649 which you recently sponsored, a technical problem has arisen which we feel needs to be resolved. On page 1, line 9 the word "unconditionally" should be stricken from the bill. After consultation with our General Counsel's Office it is felt that the word serves no useful purpose. The Secretary would have the option in all situations to reject gifts overly encumbered with conditions; therefore it becomes unnecessary to further restrict the authority to accept gifts by adding the word "unconditionally."

We appreciate your efforts in behalf of the National Arboretum.

Sincerely,

ROBERT W. LONG,
Assistant Secretary.

Enclosure S. 1649.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the committee estimates that no additional costs would be

incurred by the Federal Government as the result of enactment of S. 1649.

This estimate is the same as the cost estimate furnished by the Department of Agriculture.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

ACT OF MARCH 4, 1927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized and directed to establish and maintain a national arboretum for purposes of research and education concerning tree and plant life. For the purposes of this Act, (1) the President is authorized to transfer to the jurisdiction of the Secretary of Agriculture by Executive order any land which now belongs to the United States within or adjacent to the District of Columbia located along the Anacostia River north of Benning Bridge, and (2) the Secretary of Agriculture is authorized in his discretion to acquire, within the limits of the appropriation authorized by this Act by private purchase, condemnation proceedings, or gift, land so located or other land within or adjacent to the District of Columbia: *Provided*, That the purchase price of any part of said land shall not exceed the full value assessment of such property last made before purchase thereof plus 25 per centum of such assessed value.

SEC. 2. There is hereby authorized to be appropriated a sum not to exceed \$300,000, to be expended under the direction of the Secretary of Agriculture for the acquisition of land as specified in section 1. No payment shall be made by the United States for any such land until the title thereto is satisfactory to the Attorney General and is vested in the United States.

SEC. 3. In order to stimulate research and discovery the national arboretum established by the Secretary of Agriculture in accordance with the provisions of this Act shall be under competent scientific direction. The arboretum shall be administered by the Secretary of Agriculture separately from the agricultural, horticultural, and forestry stations of the Department of Agriculture, but it shall be so correlated, with them as to bring about the most effective utilization of its facilities and discoveries.

SEC. 4. The Secretary of Agriculture is authorized to create an advisory council in relation to the plan and development of the national arboretum to be established under this Act, to include representatives of national organizations interested in the work of the arboretum.

Sec. 5. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.

○

GIFTS OF PROPERTY TO THE NATIONAL ARBORETUM

NOVEMBER 1, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,
submitted the following

REPORT

[To accompany S. 1649]

The Committee on Agriculture, to whom was referred the bill (S. 1649), to amend the Act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND NEED FOR THE LEGISLATION

On March 4, 1927, Public Law 799 was enacted. The statute authorized and directed the Secretary of Agriculture to establish and maintain a National Arboretum for purposes of research and education concerning tree and plant life.

In keeping with the development goals of the National Arboretum, various individuals and groups have, over the past 48 years, made a wide variety of contributions. These range from small sums of money to major collections of plants, such as the Gotelli Dwarf Conifer Collection, which is valued at \$500,000. Financial support from major garden organizations—such as the Garden Clubs of America, the Women's National Farm and Garden Association, the National Capital Area Federation of Garden Clubs, the National Council of State Garden Clubs, Inc., and the American Association of Nurserymen—have assisted in the creation of significant gardens for both research and educational purposes. A collection of 8,000 large azaleas was donated by the Netherlands. Recently, a rare and priceless collection of Bonsai plants was donated by the Nippon Bonsai Association of Japan to commemorate Americas Bicentennial.

As the Bicentennial celebration approaches, there are other groups which would like to make donations of plants and also funds to provide for putting plants in place so they can be viewed by the public.

It is anticipated by USDA that the visitation to the Arboretum will increase from an average annual of 500,000 to upwards of 1 million next year.

The National Arboretum will continue to grow in public stature and expand its research and educational activities, resulting in an increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture.

In past years, gifts to the National Arboretum have been accepted by the trustees of the "Friends of the National Arboretum," an organization formed pursuant to a memorandum of understanding between the advisory council of the Arboretum and the Agricultural Research Service. However, the General Counsel's office of the Department has advised the Agricultural Research Service that the memorandum of understanding does not form an adequate legal basis for the acceptance of gifts to the National Arboretum.

The Department has, therefore, requested the enactment of S. 1649. The bill would authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of property for the benefit of the National Arboretum. It will provide a vehicle whereby outside groups can follow through in making donations as they wish.

COMMITTEE CONSIDERATION

A hearing was held on H.R. 6994, on July 28, 1975, by the Subcommittee on Department Operations, Investigations and Oversight. With but one exception this bill was the same as S. 1649, as reported by the Committee. H.R. 6994 was introduced at the request of the Administration by Mr. de la Garza. Testimony in support of the bill was presented by representatives of the Department of Agriculture.

As originally introduced, the bill provided that the gift must be made "unconditionally" for the benefit of the National Arboretum or for carrying out its functions. The Department witness recommended deletion of the word "unconditionally," stating that this was an unnecessary condition, that the bill provides the Secretary with the right to accept or deny gifts and that he could reject any gift that would unduly encumber the Department. A motion was adopted striking the word "unconditionally" from H.R. 6994 and the bill was ordered reported to the full Committee by a voice vote in the presence of a quorum. On October 29, 1975, the House Committee on Agriculture by voice vote in the presence of a quorum ordered reported S. 1649 which had passed the Senate and had been referred to the Committee after the Subcommittee had acted on H.R. 6994. S. 1649 was identical to H.R. 6994, as reported by the Subcommittee.

Following is correspondence received by the Committee regarding the deletion of the word "unconditionally" from the bill:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 22, 1975.

HON. ROBERT DOLE,
U.S. Senate.

DEAR SENATOR DOLE: In regard to S. 1649 which you recently sponsored, a technical problem has arisen which we feel to be resolved.

H.R. 614

On page 1, line 9 the word "unconditionally" should be stricken from the bill. After consultation with our General Counsel's Office it is felt that the word serves no useful purpose. The Secretary would have the option in all situations to reject gifts overly encumbered with conditions; therefore it becomes unnecessary to further restrict the authority to accept gifts by adding the word "unconditionally."

We appreciate your efforts in behalf of the National Arboretum.

Sincerely,

ROBERT W. LONG,
Assistant Secretary.

JULY 28, 1975.

MR. DONALD S. ALEXANDER,
Commissioner, Internal Revenue Service,
Internal Revenue Building, Washington, D.C.

DEAR MR. ALEXANDER: Attached hereto please find a copy of H.R. 6994, a bill to amend the Act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum. This matter was taken up by the Subcommittee on Department Operations, Investigations and Oversight this date, and an amendment recommended by the Department of Agriculture was adopted which would delete the word "unconditionally" on page 1, line 9, of this bill. The bill was then reported out favorably by the Subcommittee.

In the course of the mark-up, I raised a question about whether or not the deletion of the term "unconditionally" might not permit a person to give, bequest, or devise property to the National Arboretum and retain certain benefits or rights thereby on a "conditional" basis. The response to this was that the Department had written Senator Robert Dole of Kansas with respect to the amendment of the Senate version of H.R. 6403, S. 1649, requesting this amendment to strike the word "unconditionally" and did so for the reasons set forth in the letter of July 22, 1975, addressed to Senator Dole, which was made a part of the record in this hearing and is enclosed herewith.

I was not certain in my own mind as to the effect on this bill of the deletion of the word "unconditionally" or the effect of the tax relief of the entire bill as respects those who make gifts to the United States. Inasmuch as the bill will not be taken up by the Full Committee until after the August Recess, I would appreciate receiving your views on this matter on or about September 1, 1975.

Sincerely,

CHARLES E. GRASSLEY,
Member of Congress.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 29, 1975.

HON. CHARLES E. GRASSLEY,
House of Representatives,
Washington, D.C.

DEAR MR. GRASSLEY: This is in response to your letter of July 28, 1975, requesting our views concerning the deletion of the word "uncon-

H.R. 614

ditionally" from H.R. 6994 with respect to charitable contributions deductions for gifts or devises of property to the Secretary of Agriculture for the benefit of the National Arboretum. As it is now written, the bill states that the Secretary of Agriculture is authorized to accept and use gifts, bequests, or devises of property made unconditionally for the benefit of the National Arboretum. It also provides that, for the purposes of Federal income, estate and gift tax laws such gifts, bequests, or devises shall be considered to be to the United States.

With the word "unconditionally" retained in H.R. 6994, any transfer made to or for the use of the National Arboretum would be a completed gift for the purposes of section 170 of the Internal Revenue Code which deals with income tax deductions for charitable contributions and for the purposes of section 2511 of the gift tax chapter of the Code. A deduction will be allowed for such a gift for income and gift tax purposes in the manner and to the extent provided in sections 170 and 2522, provided that the gift constitutes the donor's entire interest in the property. If a gift were less than the donor's entire interest in the property, the allowable deduction would be subject to the limitations of sections 170(f) and 2522(c) as added by the Tax Reform Act of 1969.

Similarly, for estate tax purposes, any unconditional transfer, devise, or bequest to the National Arboretum of a decedent's entire interest in property, would qualify for an estate tax charitable contribution deduction under section 2055 of the Code, provided that the property is included in his gross estate. If the transfer, devise, or bequest to the National Arboretum were only a portion of the decedent's entire interest in the property, then the allowance of the charitable contribution deduction would be subject to the general requirements of section 2055(e) as added by the Tax Reform Act of 1969.

If the word "unconditionally" is deleted from H.R. 6994, conditions could be imposed upon transfers to or for the use of the National Arboretum. Conditional transfers would not necessarily be completed gifts for income and gift tax purposes. As long as the gift is incomplete, there can be no income or gift tax charitable contribution deduction. For any conditional gift to be deductible, any condition placed upon the gift must be such that the possibility that the charitable transfer will not become effective is so remote as to be negligible.

Under some circumstances, a completed conditional gift also might not be deductible. For example, if a conditional gift passes to or is vested in a charity, a charitable contribution deduction will not be allowed for income and gift tax purposes, if the interest would be defeated by the subsequent happening of some event, the possibility of occurrence of which appears on the date of the gift not to be negligible. Sections 2522(c) and 170(f), referred to above, impose additional restrictions on the allowance of deductions for income and gift tax purposes with respect to gifts of less than the donor's entire interest in property.

The allowance of an estate tax charitable contribution deduction under section 2055 for a conditional transfer, devise, or bequest is subject to restrictions similar to those applicable to income and gift tax charitable contribution deductions. Any condition involving a possibility that the charitable interest will not take effect or will be de-

feated must be so remote as to be negligible. Further, any transfer, devise, or bequest subject to a condition must satisfy the requirements of section 2055(e), referred to above, with respect to gifts of less than the donor's entire interest in property.

Sections 170, 2055, and 2522 of the Internal Revenue Code refer to gifts or transfers "to or for the use of" the United States. In the interest of consistency of the tax laws, we suggest that line 4 on page 2 of H.R. 6994 be changed to read "a gift, bequest, or devise to or for the use of the United States." Additionally, sections 170(j), 2055(f) and 2522(d) provide cross references to statutes similar to H.R. 6994. We suggest that each of these sections be amended to provide a cross reference to the provisions of H.R. 6994.

We appreciate your interest in this matter. If we can be of further assistance to you, please feel free to call upon us.

Sincerely,

DONALD C. ALEXANDER,
Commissioner.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 23, 1975.

HON. E. (KIKI) DE LA GARZA,
*Chairman, Subcommittee on Departmental Operations, Investigation,
and Oversight, Committee on Agriculture, House of Representatives.*

DEAR MR. DE LA GARZA: In regard to H.R. 6994, a bill "To amend the Act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum," which you recently sponsored, you have requested some examples of instances when we might accept gifts with conditions. The following would be examples of the kinds of gifts which we would accept even though subject to certain conditions:

(1) A donation of money to the Arboretum from a plant society on condition that it be used to develop a particular kind of garden or maintain plants of a particular group or genera on the Arboretum grounds.

(2) A donation of money or plants on condition that a specific area or location at the Arboretum, in which the donee has a special interest, be developed and maintained.

In these cases before accepting the gifts we would determine that the conditions were compatible with plans and operations of the National Arboretum. Obviously, if we accepted the gifts, we would feel that the conditions would be acceptable. However, if the Secretary felt that any gift was overly encumbered with conditions, he would have the option to reject such a gift at his discretion. It might be remembered that some groups would not be willing to contribute without assurances that their gift would be used as intended.

Examples of public laws authorizing Federal officials to accept gifts, without specification of whether the gift may be conditional or unconditional, include 15 U.S.C. 1522, granting authority to the Sec-

retary of Commerce; P.L. 93-438, Section 107(f), granting authority to the Administrator of the Energy Research and Development Administration; P.L. 13-43, Section 1007 granting authority to the Administrator of the Veterans Administration; and P.L. 93-498, Section 21(b)(2) granting authority to the Administrator of the National Fire Prevention and Control Administration.

We hope this information will clarify the matter for your Committee.

Sincerely,

ROBERT W. LONG,
Assistant Secretary.

ADMINISTRATION POSITION

The Administration position on this bill is contained in the following letter of April 25, 1975, to the Speaker of the House of Representatives:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 25, 1975.

HON. CARL B. ALBERT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Transmitted herewith for the consideration of the Congress is a draft bill "To amend the Act of March 4, 1927 to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real or personal property for the benefit of the National Arboretum."

The Department of Agriculture recommends that the draft bill be enacted.

Public Law 799 established the National Arboretum on March 4, 1927. This Act authorized and directed the Secretary of Agriculture to establish and maintain a National Arboretum for the purpose of research and education concerning tree and plant life.

As the National Arboretum continues to grow in public stature and expand its research and educational activities, there will be an increased desire on the part of individuals and plant societies to participate in the enrichment of the Arboretum's collections as a means of advancing the arts and sciences associated with horticulture.

No additional appropriations would be required as a result of enacting this proposed legislation.

Section 102(2)(c) of P.L. 91-190 does not apply to this legislation; therefore an environmental statement is not enclosed.

An identical letter has been sent to the President of the Senate.

The Office of Management and Budget advises that there is no objection to the presentation of the proposed legislation from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to Clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that there would be no cost

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incurred by the Federal Government during the current and the five subsequent fiscal years as a result of the enactment of this legislation.

The same cost estimate was submitted to the Committee by the Department of Agriculture.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), Rule XI, of the Rules of the House of Representatives, the Committee estimates that enactment of S. 1649 would not have any inflationary impact on the national economy.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause (1)(3)(B) and clause (1)(3)(C) of Rule XI of the Rules of the House of Representatives, and Section 308(a) and Section 403 of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures and estimates and comparisons prepared by the Director of the Congressional Budget Office), are not considered applicable.

OVERSIGHT STATEMENT

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 6994 and S. 1649 were made by the Committee, within the definition of clause 2(b)(1) of Rule X of the House. No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by S. 1649.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

ACT OF MARCH 4, 1927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized and directed to establish and maintain a national arboretum for purposes of research and education concerning tree and plant life. For the purposes of this Act, (1) the President is authorized to transfer to the jurisdiction of the Secretary of Agriculture by Executive order any land which now belongs to the United States within or adjacent to the District of Columbia located along the Anacostia River north of Benning Bridge, and (2) the Secretary of Agriculture is authorized in his discretion to acquire, within the limits of the appropriation authorized by this Act by private purchase, condemnation proceedings, or gift, land so located or other land within or adjacent to the District of Columbia: Provided, That the

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purchase price of any part of said land shall not exceed the full value assessment of such property last made before purchase thereof plus 25 per centum of such assessed value.

SEC. 2. There is hereby authorized to be appropriated a sum not to exceed \$300,000, to be expended under the direction of the Secretary of Agriculture for the acquisition of land as specified in section 1. No payment shall be made by the United States for any such land until the title thereto is satisfactory to the Attorney General and is vested in the United States.

SEC. 3. In order to stimulate research and discovery the national arboretum established by the Secretary of Agriculture in accordance with the provisions of this Act shall be under competent scientific direction. The arboretum shall be administered by the Secretary of Agriculture separately from the agricultural, horticultural, and forestry stations of the Department of Agriculture, but it shall be so correlated, with them as to bring about the most effective utilization of its facilities and discoveries.

SEC. 4. The Secretary of Agriculture is authorized to create an advisory council in relation to the plan and development of the national arboretum to be established under this Act, to include representatives of national organizations interested in the work of the arboretum.

SEC. 5. *Notwithstanding any other provisions of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.*



Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend the Act of March 4, 1927, to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of March 4, 1927, is amended to add the following:

“SEC. 5. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

November 5, 1975

Dear Mr. Director:

The following bills were received at the White House on November 5th:

- S. 24
- S. 896 ✓
- S. 1649 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.